



BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-888

Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results and Notice of Amended Final Results of the Antidumping Duty Administrative Review; 2006-2007

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On April 28, 2016, the United States Court of International Trade (the CIT or the Court) issued final judgment in *Since Hardware (Guangzhou) Co., Ltd., v. United States*, Court No. 09-00123, sustaining the Department of Commerce's (the Department) final results of the fourth redetermination pursuant to remand.<sup>1</sup> Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co., v United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the antidumping duty administrative review of floor-standing, metal top ironing tables and certain parts thereof from the People's Republic of China covering the period August

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<sup>1</sup> See Final Results of Redetermination Pursuant to Court Remand, Floor Standing Metal Top Ironing Tables and Certain Parts Thereof from the People's Republic of China, *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 09-00123, Slip Op. 15-15 (CIT February 18, 2015), dated June 18, 2015 (*Fourth Redetermination*), available at <http://enforcement.trade.gov/remands/index.htm>.

1, 2006, through July 31, 2007, and is amending the final results with respect to the weighted-average dumping margin assigned to Since Hardware (Guangzhou) Co., Ltd. (Since Hardware).<sup>2</sup>

EFFECTIVE DATE: May 8, 2016

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0649, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 16, 2009, the Department published its *Final Results*.<sup>3</sup> On March 18, 2009, Since Hardware, an exporter of the subject merchandise, timely filed a complaint with the CIT to challenge certain aspects of the *Final Results*. The litigation history of this procedure is outlined below.

On September 27, 2010, the Court remanded this matter.<sup>4</sup> On February 17, 2011, the Department issued its *First Redetermination*, in which it declined to issue a separate rate to Since Hardware and continued to assign Since Hardware an AFA rate of 157.68 percent.<sup>5</sup>

Upon consideration of the *First Redetermination*, on November 29, 2011, the Court determined that the Department failed to consider record information relating to Since

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<sup>2</sup> See *Floor-Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 11085 (March 16, 2009), and accompanying Issues and Decision Memorandum (*Final Results*).

<sup>3</sup> *Id.*

<sup>4</sup> *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 09-00123, Slip. Op. 10-108 (September 27, 2010) (*Since Hardware I*).

<sup>5</sup> See *Final Results of Redetermination Pursuant to Court Remand Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China Since Hardware (Guangzhou) Co., Ltd.. United States*, dated February 17, 2011 (*First Redetermination*).

Hardware's application for a separate rate.<sup>6</sup> In *Since Hardware II*, the Court directed the Department to determine whether Since Hardware was entitled to a separate rate and, if so, to determine that rate.<sup>7</sup> On May 29, 2012, the Department issued its *Second Redetermination*, in which it determined that Since Hardware was entitled to a separate rate.<sup>8</sup> However, because Since Hardware's questionnaire responses had otherwise been determined to be unreliable, the Department continued to assign an AFA rate of 157.68 percent to Since Hardware.<sup>9</sup> In the *Second Redetermination*, the Department also reviewed data from U.S. Customs and Border Protection (CBP), and determined that these CBP data established that selected importers paid antidumping duties of 157.68 percent.<sup>10</sup> Based on this finding, the Department concluded the 157.68 percent rate was relevant with regard to Since Hardware.

On May 31, 2013, in *Since Hardware III*, the Court sustained the Department's determination not to reopen the record of the proceeding.<sup>11</sup> The Court also determined that the 157.68 percent rate was reliable.<sup>12</sup> However, the Court found the Department did not demonstrate the relevance and commercial reality of the 157.68 percent AFA rate. On October 31, 2013, the Department issued its *Third Redetermination*, determining that the 157.68 percent rate assigned to Since Hardware was corroborated to the extent practicable by the use of CBP data.<sup>13</sup>

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<sup>6</sup> See *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 09-00123, Slip Op. 11-146 (November 29, 2011) (*Since Hardware II*).

<sup>7</sup> *Id.*

<sup>8</sup> See Final Results of Redetermination Pursuant to Court Remand Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China *Since Hardware (Guangzhou) Co., Ltd. v. United States*, dated May 29, 2012 (*Second Redetermination*).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No., 09-00123, Slip Op. 13-71 (May 31, 2013) (*Since Hardware III*).

<sup>12</sup> *Id.*

<sup>13</sup> See Final Results of Redetermination Pursuant to Court Remand Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China *Since Hardware (Guangzhou) Co., Ltd. v. United States*, dated October 31, 2013 (*Third Redetermination*).

On February 18, 2015, in *Since Hardware IV*, the Court rejected the analysis concerning corroboration of the 157.68 percent rate assigned to Since Hardware, as outlined in the *Third Redetermination*.<sup>14</sup> The Court ordered the Department to support the rate assigned to Since Hardware by demonstrating that the information had some grounding in commercial reality.<sup>15</sup> The Court further determined that the Department's analysis of the Customs data set forth in the *Third Redetermination* was insufficient to corroborate the 157.68 percent AFA rate assigned to Since Hardware.<sup>16</sup> On June 18, 2015, the Department issued its *Fourth Redetermination*. In the *Fourth Redetermination*, the Department, under protest, assigned a revised AFA rate of 72.29 percent to Since Hardware to better address the Court's concerns of relevance and commercial reality.<sup>17</sup> This 72.29 percent rate was the rate assigned to Separate Rate companies in the less-than-fair value investigation.<sup>18</sup>

On April 28, 2016, the Court sustained the Department's *Fourth Redetermination*, and entered final judgment.<sup>19</sup>

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<sup>14</sup> See *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Slip Op. 15-15, Court No. 09-00123 (February 18, 2015) (*Since Hardware IV*).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*, at 8-20.

<sup>17</sup> See *Fourth Redetermination*.

<sup>18</sup> See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China* 69 FR 47868 (August 6, 2004).

<sup>19</sup> See *Since Hardware (Guangzhou) Co., Ltd. v. United States*, Court No. 09-00123, Slip Op. 16-42 (April 28, 2016).

### Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the Federal Circuit has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision not “in harmony” with a Department determination, and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s April 28, 2016 judgment sustaining the *Fourth Redetermination* constitutes a final decision of the Court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

### Amended Final Results

Because there is now a final court decision, the Department is amending the *Final Results* with respect to the dumping margin of Since Hardware. The revised weighted-average dumping margin for Since Hardware during the period August 1, 2006, through July 31, 2007, is as follows:

Exporter	Weighted Average Dumping Margin (Percent)
Since Hardware (Guangzhou) Co., Ltd.	72. 29 percent

For Since Hardware, the cash deposit rate will remain the rate established in the 2008-2009 Amended Final Results, a subsequent review, which is 83.83 percent.<sup>20</sup>

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<sup>20</sup> See *Floor Standing Metal-Top Ironing Tables and Certain Parts Thereof From the People’s Republic of China: Notice of Court Decision Not in Harmony with Final Results and Notice of Amended Final Results of Antidumping Duty Administrative Review; 2008-2009*, 80 FR 36507, (June 25, 2015) (2008-2009 Amended Final Results).

In the event the Court's ruling is not appealed, or if appealed and upheld by the Federal Circuit, the Department will instruct CBP to assess antidumping duties on entries of the subject merchandise exported by Since Hardware using the revised assessment rate calculated by the Department in the *Fourth Redetermination*.

This notice is issued and published in accordance with sections 516(A)(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: June 30, 2016.

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Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement & Compliance

[FR Doc. 2016-16253 Filed: 7/7/2016 8:45 am; Publication Date: 7/8/2016]